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## General Information

The Treasury Offset Program (TOP) is a government-wide debt collection program administered by Financial Management Services (FMS), a bureau of the U.S. Department of the Treasury. This program allows for state agencies to intercept federal income tax refunds and apply them to delinquent state tax.

The Tax Commission sends *Notice of Lien and Intent to Offset* by certified mail to the last known address of the taxpayer explaining their debt will be forwarded to TOP if not satisfied within 60 days.

Once TOP receives the debt, the federal income tax refund may be taken to pay down the state debt. This process is referred to as *offset*. Any remaining amount is sent to the debtor. Financial Management Services mails notification to the taxpayer explaining why the federal refund was reduced. The letter includes pertinent state agency contact information and explains **it could take several weeks before the federal refund reaches the state agency. It may take up to four weeks or more to update to USTC records**

## How to Avoid an Offset

To avoid the treasury offset, the taxpayer must take one of the actions described below within 60 days from the date of the certified *Notice of Lien and Intent to Offset*.

### Pay the Debt

The taxpayer must pay the full amount listed on the Notice of Lien and Intent to Offset to the Utah State Tax Commission, using the coupon portion of the notice. The Utah State Tax Commission also accepts payments online by echeck or credit card (Master Card and American Express) at [taxexpress.utah.gov](http://taxexpress.utah.gov)

## **Request a Review**

A taxpayer who believes that all or part of the debt is not due or legally enforceable may request a review of his or her account by writing to the Utah State Tax Commission, 210 N. 1950 West, Salt Lake City, UT 84134. Please include a detailed explanation and daytime telephone number. A review may take up to 60 days to complete and the taxpayer will be required to send documentation to support assertions. The taxpayer may call (801) 297-2200 or toll-free 1-800-662-4335.

## **Bankruptcy**

Taxpayers who have filed for bankruptcy and the automatic bankruptcy stay is in effect may notify the Tax Commission at (801) 297-6219 or toll-free 1-800-662-4335, ext. 6219, OR they can send evidence concerning the bankruptcy to the Tax Commission at 210 N. 1950 West, Salt Lake City, UT 84134, ATTN: Bankruptcy Unit.

## **Native American**

If you are an enrolled tribal member and believe that all or part of the debt is not past due or legally enforceable, you may request a review of your account by calling (801) 297-2200 or toll-free 1-800-662-4335. You may be required to send documentation to support your statements.

## **Frequently Asked Questions**

### **What is an "offset?"**

An offset is the withholding of all or a portion of a state income tax debt from your federal income tax refund. If the full amount is not collected in one year, future offsets may be done to satisfy your tax liability.

### **Can offset be avoided?**

Taxpayer's wishing to avoid offset must resolve their debt within the 60 day time frame provided in the Notice of Intent to Offset letter. It is difficult to stop offset after this time has expired.

Offset action cannot be stopped once notice is received from Financial Management Services. In the event the liability has been resolved and this notice is still received, no action can be taken to effect the federal refund until it updates to your account. It takes approximately four weeks from the date of the FMS letter to update to Utah State Tax Commission records.

**I have been notified by the Tax Commission that my IRS tax refund will be offset so I will not receive my full federal refund. I believe that I have paid off the debt and need to resolve this issue. Whom do I contact?**

If you believe a tax liability has been satisfied or is different from the amount stated in your certified *Notice of Lien and Intent to Offset*, you may request a review of your state income tax account. You will need to provide your account number and give a detailed explanation of the circumstance. A review may take up to 60 days to complete and you may be required to submit additional supporting documentation. Please do not include your Social Security number in emails to [taxmaster@utah.gov](mailto:taxmaster@utah.gov) as email is not secure and may be viewed by outside parties.

**How can I pay my debt to avoid offset?**

Mail the total payment stated on the certified "Notice of Intent to Offset" letter you received, using the enclosed envelope. The payment must be sent within 60 days of the date of the notice. If you disagree with the total in the letter, you can request a review of your account. Please do not email your question, because the Tax Commission would need your Social Security number to review your account, and email is not secure and may be viewed by outside parties.

**My spouse and I filed a joint tax return and our refund was offset for a debt that my spouse owes. How can I get my portion of the refund back?**

You must complete IRS Form 8379 to get your share of the refund. You may download the form using the free Adobe Acrobat Reader, call the IRS at 1-800-829-3676 or visit a local IRS office (one is located in the lobby of the State Tax Commission). If you have questions about the form or need help completing it, call IRS at 1-800-829-1040. The completed Form 8379 should be mailed to the IRS center where you sent your original tax return.

**I have received a notice that my federal refund will be offset to collect a tax debt my ex-husband incurred without my knowledge while we were married. What can I do?**

The Tax Commission has special programs called "innocent spouse" and "injured spouse" to deal with situations such as yours. Please contact:

Innocent Spouse Program  
210 North 1950 West  
Salt Lake City, Utah 84134

OR, email questions about the Innocent Spouse program to: [taxmaster@utah.gov](mailto:taxmaster@utah.gov) . Please include a daytime telephone number in your message and DO NOT include any sensitive information, such as your social security number, in the email.

**Your notice says my federal refund will be offset for state income taxes owed during years for which I did not file a Utah income tax return. I was a resident and earned income in those years, but I actually had refunds due, so I didn't think I needed to file a return. In addition, the amount of tax due seems way out of line.**

Many people mistakenly believe that if they don't have a "tax due" amount on their state income tax returns (meaning that their withholding equals or exceeds their state income tax liability) that they don't need to file a return. While there is no penalty for filing a "no-tax-due" return after the April 15 due date, you still must file a return in order for the income tax withheld from your paychecks to be applied against your state tax due. Otherwise, a year or so down the road the Tax Commission will receive information from IRS regarding your income during that tax year. If you have not filed a state income tax return, the Tax Commission cannot give you credit for the tax that was withheld from your pay. Also, because the Tax Commission does not know your filing status, it estimates your tax due based on the "Single" rate with only one personal exemption. That is why your tax bill looks so large. It represents your total tax due, not just that which is due (if any) after withholding, calculated at the highest rate. To clear this matter up, you must file a tax return for each tax year for which there is an estimate and request a review of your account. After you provide documentation of your withholding and any other tax credits, exemptions or deductions for each of those tax years, the correct tax due will be calculated and any excess withholding may be refunded. NOTE: Past-year refunds only may be claimed for up to three years. After that, the statute of limitations expires on those tax years and the refunds are lost.

## **Are Native Americans required to pay the Utah income tax?**

Under some circumstances, Native Americans are required to pay state income tax.

**Residents:** Native Americans who are domiciled and earn income in Utah should file a Utah income tax return.

An enrolled member of a Native American tribe or nation in Utah, who lives and works on the reservation on which he or she is an enrolled member, is exempt from Utah income tax on income earned on the reservation.

An enrolled member of the Ute tribe who works on the Uintah and Ouray Reservation and lives on land removed from that reservation under Hagen v. Utah (510 U.S. 399 (1994)) is exempt from Utah income tax on income earned on the reservation.

**Nonresidents:** Nonresident Native Americans who are not domiciled on a reservation within Utah, but earn income from Utah sources, must file a Utah income tax return and pay any tax due.

## **Why can the U.S. Government collect money to pay debts owed to a State?**

Under the federal Debt Collection Improvement Act (DCIA), an administrative offset such as the Treasury Offset Program (TOP) may be used to collect debts, including funds or property owed by a person to a State (including any past-due support being enforced by the State).

The Secretary of the Treasury has the discretion to collect debts owed to States by offset; it is not mandatory. A reciprocal agreement must be made with the state and the appropriate state official must request the offset. Currently, nine states, including Utah, have signed reciprocal agreements with the Treasury Department to participate in TOP.